

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Replacement Rates - Supplemental Retirement

STATOM:

EXTENSION

NO.

A/ADD/Pers/EBS

DATE

12 February 1986

STAT

TO: (Officer
building)

and

DATE

OFFICER'S
INITIALSCOMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

RECEIVED

FORWARDED

1.

DD/Pers/EBS

Bob,

2.

D/Pers

Attached are charts which reflect replacement rates for the supplemental retirement plan being worked out by Senate/House conferees. We have also attached the briefing book used on the Hill that show the effects of the Ford/Oakar, Roth/Stevens original proposals and our 1.3% accrual formula for CIARDS.

Note the compromise plan provides over a 9% greater replacement rate than the 1.3% version for CIARDS-types and comes very close to the original Ford/Oakar plan. For regular Civil Service, the total replacement rates exceed the original Ford/Oakar plan at time of retirement--the change in the Thrift Plan formula accounts for this. The trade-off is a reduction in COLA protection.

We are, of course, available to discuss if you so desire.

cc: DD/Pers

STAT

11.

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15.

REGULAR CIVIL SERVICE

Wong lib 14 FEB 1990
 CG 1057
 1058

BASIC PROVISIONS

- Age 55 Retirement
- 1% accrual X years of service X high 3
- Supplemental Annuity from retirement to age 62
- Thrift Plan - Maximum 10% employee contribution: government contributes 1% even if no employee contribution, then matches in full up to 3% of any employee contributions and one half of next 2% of employee contributions (Max gov't contribution - 5%)
- Reduced COLA

AGENCY CSRS EMPLOYEES AGE 55 WITH 30 YEARS SERVICE

FINAL SALARY	<u>\$30,000</u>	<u>\$45,000</u>	<u>\$60,000</u>	<u>\$75,000</u>
REPLACEMENT RATE AT 55				
Pension	28%	28%	28%	28%
Supplement	16%	12%	9%	8%
Gov't 1% to Thrift Plan	1.6%	1.6%	1.6%	1.6%
Total	45.6%	41.6%	38.6%	37.6%
Thrift Plan	14.4%	14.4%	14.4%	14.4%
Total *	60%	56%	53%	52%
Current CSRS	53%	53%	53%	53%
REPLACEMENT RATE AT 62				
Pension	21%	21%	21%	21%
OASDI	17%	13%	10%	8%
Thrift Plan	16%	16%	16%	16%
Total	54%	50%	47%	45%

- * Employee Contribution to Achieve Total:
- | | |
|--------------------|-------|
| Social Security | 5.7% |
| Basic Pension Plan | 1.3% |
| Thrift Plan | 5.0% |
| TOTAL | 12.0% |

TENTATIVE HOUSE/SENATE COMPROMISE PLAN
SPECIAL CATEGORIES

14 FEB 1988

BASIC PROVISIONS

- ° Age 50 Retirement or 25 years service at any age
- ° 1.7% Accrual (1st 20 years); 1% (after 20) X years of service X high 3
- ° Supplemental annuity from Retirement to age 62
- ° Thrift Plan - Maximum 10% employee contribution: government contributes 1% even if no employee contributions, then matches in full up to 3% of any employee contribution and one half of next 2% of employee contributions (Max gov't contribution - 5%)
- ° Reduced COLA

CIARDS EMPLOYEES RETIRING AT AGE 50 WITH 25 YEARS OF SERVICEUNDER SPECIAL CATEGORY PROVISIONS

FINAL SALARY	<u>\$30,000</u>	<u>\$45,000</u>	<u>\$60,000</u>	<u>\$75,000</u>
REPLACEMENT RATE AT 50				
Pension Plan	37%	37%	37%	37%
Supplement	14%	10%	8%	6%
Gov't 1% to Thrift Plan	1%	1%	1%	1%
Total	52%	48%	46%	44%
Thrift Plan	9%	9%	9%	9%
Total*	61%	57%	55%	53%
Current CIARDS	47%	47%	47%	47%
REPLACEMENT RATE AT 62				
Pension Plan	33%	33%	33%	33%
OASDI	15%	11%	9%	7%
Thrift Plan	10%	10%	10%	10%
Total	58%	54%	52%	50%

*Employee Contribution to Achieve Total:

Social Security	5.7%
Basic Pension Plan	1.8%
Thrift Plan	5.0%
TOTAL	12.5%

PROPOSED CONFERENCE AGREEMENT - SUPPLEMENTAL RETIREMENT LEGISLATION

1. BASIC ANNUITY PLAN

Proposed conference agreement - May 14, 1986																													
A. Eligibility	Federal civilian employees covered by Social Security (generally, those employees hired after December 31, 1983).																												
B. Employee contributions required	1.3% of pay in 1987, 0.94% in 1988-89, and 0.8% after 1989.																												
C. Vesting of retirement benefits	5 years civilian service, provided employee's contributions are not refunded.																												
D. Salary base	Average of high-3 years salary.																												
E. Retirement benefit	1% of high-3 pay times years of service, or 1.1% if retiring after age 62 & 20 years svc.																												
F. Eligibility for retirement																													
1. Unreduced	Age 62 & 5 years service, age 60 & 20 years service, or "Minimum Retirement Age" & 30 years service--																												
	<table> <tr> <th>Year of birth</th><th>Minimum Retirement Age</th></tr> <tr> <td>Before 1948</td><td>55</td></tr> <tr> <td>1948</td><td>55 & 2 months</td></tr> <tr> <td>1949</td><td>55 & 4 months</td></tr> <tr> <td>1950</td><td>55 & 6 months</td></tr> <tr> <td>1951</td><td>55 & 8 months</td></tr> <tr> <td>1952</td><td>55 & 10 months</td></tr> <tr> <td>1953 - 1964</td><td>56</td></tr> <tr> <td>1965</td><td>56 & 2 months</td></tr> <tr> <td>1966</td><td>55 & 4 months</td></tr> <tr> <td>1967</td><td>55 & 6 months</td></tr> <tr> <td>1968</td><td>55 & 8 months</td></tr> <tr> <td>1969</td><td>56 & 10 months</td></tr> <tr> <td>1970 & after</td><td>57</td></tr> </table>	Year of birth	Minimum Retirement Age	Before 1948	55	1948	55 & 2 months	1949	55 & 4 months	1950	55 & 6 months	1951	55 & 8 months	1952	55 & 10 months	1953 - 1964	56	1965	56 & 2 months	1966	55 & 4 months	1967	55 & 6 months	1968	55 & 8 months	1969	56 & 10 months	1970 & after	57
Year of birth	Minimum Retirement Age																												
Before 1948	55																												
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1951	55 & 8 months																												
1952	55 & 10 months																												
1953 - 1964	56																												
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1966	55 & 4 months																												
1967	55 & 6 months																												
1968	55 & 8 months																												
1969	56 & 10 months																												
1970 & after	57																												
2. Reduced	Minimum Retirement Age & 10 years service.																												
3. Involuntary	Age 50 & 20 years service, or any age & 25 years service.																												
4. Deferred vested	Unreduced benefit at age 62, if employee had 5 years civilian service at termination and did not get refund of contributions. Reduced benefit available at Minimum Retirement Age to vested employee with 10 years service.																												

1. BASIC ANNUITY PLAN (continued)

Proposed conference agreement - May 14, 1986

G. Amount of annuity

- | | |
|--------------------|---|
| 1. Unreduced | Based on accrual rate, without reduction. |
| 2. Reduced | Reduced 5% for each year under age 62. |
| 3. Involuntary | Based on accrual rate without reduction. Supplement paid from Minimum Ret. Age to age 62. |
| 4. Deferred vested | Full accrued benefit payable at age 62. Reduced benefit can be elected at Minimum Retirement Age by former employee with 10 years of service. |

H. Supplement payable to age 62

Employee retiring after Minimum Retirement Age with 30 years service, or age 60 with 20 years service, gets Supplement to age 62, equal to estimated Social Security benefit earned in federal service.

Supplement is subject to earnings test, similar to the test used by Social Security at age 62, reducing Supplement if retiree has earned income in excess of an annual exempt amount (\$5,760 in 1986, wage-indexed).

I. Refunds

Option to withdraw contributions at separation with benefits forfeited.

J. Cost-of-living adjustments (COLAs)

1. Annual COLA percentage, based on increase in Consumer Price Index (CPI)	Increase in CPI	Annual COLA percentage
	Up to 2%.....	Same as CPI increase
	2% to 3%.....	2%
	3% or more.....	CPI increase minus 1 percentage point

2. Eligibility for COLA

Regular retirees over age 62, or disabled and survivors at any age.

K. Optional forms of benefits

1. Joint-&-survivor annuity, automatic if married unless jointly rejected. Employee's annuity is reduced 10% to provide spouse with 50% survivor benefit.
2. Alternative options that are actuarially equivalent and offered by Office of Personnel Management.

2. THRIFT-SAVINGS PLAN

Proposed conference agreement - May 14, 1986

A. Eligibility

Every 6 months employees have an open season to join the plan or reallocate investments. Newly hired employees may join at the second open season (6 to 12 months after hire).

B. Contributions by employer and employees

Employer automatically contributes 1 percent of pay into each employee's account.

Employees may contribute up to 10% of pay, with employer matching as follows--

First 3% of pay.....\$1.00 per \$1.00

Next 2% of pay.....\$.50 per \$1.00.

So employer contributes at most 5% of pay for any employee.

Employees covered by CSRS also may contribute up to 5% of pay, with no employer matching, to invest in Fund A (government securities).

C. Vesting

Full and immediate vesting of all except the 1%-of-pay automatic government contribution. This automatic contribution becomes vested at 3 years of service for career civil servants, 2 years of service for non-career SES and political (Schedule C) appointees, Members and Congressional staff.

D. Investments

1. Employee may elect to invest own account in:

Fund A--Special government securities.

Fund B--Fixed-income securities, using insurance company Guaranteed Investment Contracts (GICs), bank certificates of deposit or other private-sector securities.

Fund C--Equities, using a stock index fund (invested in proportion to a diversified common stock portfolio such as the Wilshire 5000 Equity index).

2. Management of investment funds

The investment funds are managed by a Board of 5 members appointed by the President, taking into account one recommendation from the Senate and one from the House. Executive Director is responsible for investment operations, employee recordkeeping, etc. Voting rights in connection with common stock owned by the Plan are not exercised.

2. THRIFT-SAVINGS PLAN (continued)

Proposed conference agreement - May 14, 1986

D. Investments (continued)

3. Phase-in of private-sector investment option in early years of the thrift plan:	Contributions in calendar year	Percentage required to be in government securities	
		Employee	Employer
	1987	100%	100%
	1988	80	100
	1989	60	100
	1990	40	100
	1991	20	100
	(After 1991, no funds derived from employee contributions are required to be held in government securities.)		
	1992	0	100
	1993	0	80
	1994	0	60
	1995	0	40
	1996	0	20
	(After 1996, no funds are required to be held in government securities.)		

E. Payout of employee retirement accounts

Employee may elect payout of
account balance:

1. As annuity for life or for a fixed term.
2. In cash (at retirement age, death or disability).
3. As rollover to IRA (at termination of employment).

Active employees may not withdraw funds.

Program of loans to employees is
to be established by January 1, 1988.

3. SURVIVOR BENEFITS

Proposed conference agreement - May 14, 1986

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A. Pre-retirement
death benefit
to spouse or
former spouse

At death of married employee with 18 months
of civilian service, surviving spouse gets--

1. Lump sum of \$15,000 (indexed to CPI) and
one-half employee's annual rate of pay
or high-3 average if higher. Spouse may
elect payment as an annuity.
2. Annuity equal to 50% of accrued annuity,
if employee had 10 years of service.

These benefits are paid in addition to any
Social Security, group life insurance or
thrift plan death benefits.

B. Children's benefits,
payable at death
before or after
retirement

Annually adjusted amounts, offset by Social
Security children's benefits, varying by
number of children & whether or not orphaned.
In 1986 amount is about \$2,800 per child, up
to 3 children, or \$3,400 if orphaned.
Payable to unmarried child up to age 18,
age 22 if in school, or any age if disability
started before age 18.

C. Optional post-
retirement
death benefit
to spouse or
former spouse

Employee's annuity is reduced 10% to provide
annuity to surviving spouse.

Automatic if married unless jointly
rejected by both spouses.

Surviving spouse gets (1) 50% of employee's
unreduced annuity, and (2) supplement payable
to age 60 if ineligible for Social Security.
At spouse's death, employee's annuity is
restored to unreduced amount.

D. Special provisions
for surviving
former spouses,
or new spouses
due to marriage
after retirement

Benefits are the same as for surviving
spouses, subject to elections, court
orders and deposits in certain cases.

4. DISABILITY BENEFITS

Proposed conference agreement - May 14, 1986

A. Administration and eligibility	Disability benefit paid if employee has 18 months of civilian service.
B. Definition of disability	<p>Employee must be unable, because of disease or injury, to render useful and efficient service in the employee's position. Employee will also qualify for Social Security benefits if unable to work in any substantial gainful activity. Employee may not decline reasonable job offer in the same agency and commuting area, at the same pay grade.</p> <p>During disability, total income from work may not exceed 80% of former job's current pay level. Employee may be given physical exams.</p>
C. Disability benefit amounts	<p>1. In first year of payments 60% of high-3 minus 100% of any Social Security benefit payable to the employee.</p> <p>2. After 1st year, up to age 62 40% of high-3 minus 60% of initial Social Security benefit payable to the employee, increased by annual COLA percentage (same as allowed for basic annuity at age 62 & over), but not below annuity earned to date.</p>
D. Retirement benefits after disabled employee reaches age 62	<p>Recomputed from basic annuity formula, but limited to benefit payable to individual who gets Social Security (40%-less-60% formula).</p> <p>Employee gets credit for years of disability toward basic annuity formula, and salary for purposes of the high-3 goes up at annual COLA percentage.</p>

5. MISCELLANEOUS PROVISIONS

Proposed conference agreement - May 14, 1986

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A. Credited service

- | | |
|----------------------|--|
| 1. Part-time service | Pay rate is increased to full-time rate, and benefit formula uses pro-rated service. |
| 2. Unused sick leave | Not credited. |
| 3. Military service | To get credit for post-1956 military service, employee must deposit 3% of military base pay for period of service, plus interest if deposit made more than 2 years after hire. |
-

B. Treatment of special groups of employees

- | | |
|---|--|
| 1. Firefighters, law enforcement officers and air traffic controllers | <p>Unreduced benefit at age 50 & 20 years of service, or any age & 25 years service.</p> <p>Annuity is 1.7% of high-3 pay times years of service up to 20, 1.0% times years over 20. Supplement paid to age 62, equals estimated Soc.Sec. benefit earned in federal service, earnings-tested above Minimum Retirement Age. Annual COLA percentage applies at all ages.</p> <p>Employees contribute additional 0.5% of pay.</p> |
| 2. Military reserve technicians | Employee separated due to termination of military service after age 50 & 25 years service gets unreduced annuity with Supplement to 62, earnings-tested above Minimum Retirement Age. |
| 3. Members of Congress and Congressional employees | <p>Unreduced annuity for Members only at age 50 & 20 years of service, or any age & 25 years of service.</p> <p>Annuity is 1.7% of high-3 pay times years of service up to 20, 1.0% times years over 20. Earnings-tested Supplement paid from Minimum Retirement Age to age 62.</p> <p>No COLA to age retirees before age 62. These classes contribute additional 0.5% of pay.</p> |
| 4. Employees of non-appropriated fund instrumentalities | Not covered. Department of Defense is to provide a study of how to give such employees appropriate benefits and portability. |
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5. MISCELLANEOUS PROVISIONS (continued)

Proposed conference agreement - May 14, 1986

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C. Transfers of current employees covered by CSRS to new program

Current employees may elect between July 1 and December 31, 1987 to transfer into the new plan including Social Security--

- Credit in current program stops, but the high-3 pay continues to run.
- All service counts toward years needed to be eligible for retirement, disability and vesting in both CSRS and new plan.
- Employee gets survivor and disability coverage from the new plan only.
- Unused sick leave is credited under CSRS based on the amount accumulated at date of transfer, or date of retirement if lower.
- Current law Social Security windfall benefit reduction provision is retained.

D. Treatment of employees re-hired, who were not covered earlier by Social Security

- | | |
|---|--|
| 1. Employees with break-in-service up to 1 year | Remain out of Social Security and are covered by CSRS. May transfer to the new plan including Social Security coverage. |
| 2. Employees with break-in-service over 1 year | Covered by Social Security, and-- <ul style="list-style-type: none"> a) Those with less than 5 years under CSRS are covered by the new plan. b) Those with 5 or more years under CSRS are covered by CSRS with 100% offset of Social Security. May transfer to the new plan. |
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E. Transition from interim plan in effect 1984-86

New plan's effective date is January 1, 1987.

- | | |
|--|---|
| 1. Employees newly hired on or after January 1, 1984 | Get credit for all service toward new plan. Those covered on January 1, 1987 get credit toward thrift plan of 1% of 1984-86 pay. |
| 2. Employees before January 1, 1984, covered then by Social Security mandatorily | These employees get CSRS benefits, offset by Social Security benefits attributable to federal service, and pay contributions at the CSRS rate less Social Security (OASDI) rate. They may transfer to the new plan. |
| 3. Employees re-hired during 1984-86 | These employees are treated the same as later re-hires (see D. above). |
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DDA Talking Points - Senator Mathias

- Two year internal study to review and analyze Agency retirement requirements.

Conclusions reached from study:

- (1) need a fully secure retirement system, (Agency self-administered);
- (2) need a retirement system that meets Agency management requirements:
 - Retain the Director's management flexibility and authority to place employees where needed to meet surge intelligence requirements
 - Retire individuals when in interest of U.S. Government
 - Adequate annuity to make early retirement feasible
 - Recognize and reward overseas service

- Legislative Proposals by Congress:

- Roth/Stevens Bill (Black Binder Data)

- Problems created for Agency:
 - Accrual rates insufficient (1% vs 1.3%)
 - No supplement from age 55 to 62 for non-CIARDS types
 - Does not provide Option B for non-CIARDS types (oversight)
 - FBIS TCNs (non U.S. citizens or resident aliens) are not covered

- Ford/Oakar Bill (Black Binder Data)

- Would meet Agency needs so long as self-administration included

- Points of Emphasis

- Agency retirement system - management tool
- Difference in State versus the Agency
- Self-administered retirement for all Agency employees
- 1.3% versus 1% accrual rate
- Age 55 with supplemental for non-CIARDS types
- CIARDS review during the next year

November 7, 1985

CONGRESSIONAL RECORD — SENATE

S 15043

ma, Mr. Jenkins, Mr. Gephardt, Mr. Russo, Mr. Duncan, Mr. Archer, Mr. Vander Jagt, Mr. Crane, and Mr. Frenzel.

From the Committee on Appropriations: Mr. Whitten, Mr. Bolland, Mr. Natcher, Mr. Smith of Iowa, Mr. Pursell, and Mr. Loeffler.

From the Committee on Rules: Mr. Pepper, Mr. Moakley, Mr. Derrick, Mr. Beilenson, Mr. Frost, Mr. Latta, and Mr. Lott.

From the Committee on Government Operations: Mr. Brooks, Mr. Fuqua, Mr. Waxman, Mr. Synar, Mr. Horton, and Mr. Kindness.

From the Committee on the Budget: Mr. Gray of Pennsylvania, Mr. Downey of New York, Mr. Miller of California, Mr. Leath of Texas, Mr. Kemp, and Mr. Gradison.

Appointed as additional conferees: Mr. Foley, Mr. Ford of Michigan, Mr. Obey, Mr. Aspin, Mr. Mineta, Ms. Oakar, Mr. Panetta, Mr. Fazio, Mr. Michel, Mr. Dickinson, Mr. Cheney, Mr. Lewis of California, Mrs. Martin of Illinois, and Mr. Mack.

Mr. STEVENS. Mr. President, this has been cleared with the distinguished leader on the Democratic side of the aisle. I move that the Senate insist on its amendments and agree to the conference requested by the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer [Mr. WALLOP] appointed Mr. PACKWOOD, Mr. DOMENICI, Mr. ROTH, Mr. DANFORTH, Mr. ARMSTRONG, Mr. GRAMM, Mr. RUDMAN, Mr. LONG, Mr. BENTSEN, Mr. CHILES, Mr. LEVIN, Mr. BORK, and Mr. HOLLINGS conferees on the part of the Senate.

FEDERAL RETIREMENT REFORM ACT

AMENDMENT NO. 978

(Purpose: To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to establish a new retirement and disability plan for certain employees of the Central Intelligence Agency)

Mr. EAGLETON. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. EAGLETON], for himself and Mr. STEVENS, proposes an amendment numbered 978.

Immediately following title III, insert the following:

TITLE IV—CENTRAL INTELLIGENCE AGENCY RETIREMENT REFERENCES

SEC. 401. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended—

(1) in section 111, by striking out "When" and inserting in lieu thereof "Except as otherwise provided in section 302 of this Act, when";

(2) by striking out "this Act" each place it appears in title II except in sections 201 and 204, and inserting in lieu thereof "this title"; and

(3) by inserting "under this title" after "payable from the Fund" each place it appears in title II.

CONTRIBUTIONS TO THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 402. Section 211 of the Central Intelligence Agency Retirement Act of 1964 for

Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended—

(1) by inserting "Except as provided in subsection (d)," before "7 percent" in the first sentence of subsection (a); and

(2) by adding at the end thereof the following new subsection (d):

"(d)(1) In the case of a participant who was a participant subject to this Act before January 1, 1984, and whose service—

"(A) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, and

"(B) is not creditable service for any purpose under title III of this Act or chapter 84 of title 5, United States Code,

there shall be deducted and withheld from the basic pay of the participant under this subsection during any pay period only the amount computed pursuant to paragraph (2).

"(2) The amount deducted and withheld from the basic pay of a participant during any pay period pursuant to paragraph (1) shall be the excess of—

"(A) the amount determined by multiplying the percent applicable to the participant under subsection (a) by the basic pay payable to the participant for such pay period, over

"(B) the amount of the taxes deducted and withheld from such basic pay under section 3101(a) of the Internal Revenue Code of 1954 for such pay period."

OFFSET OF ANNUITY BY THE AMOUNT OF SOCIAL SECURITY BENEFITS

SEC. 403. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended by adding at the end thereof the following new subsection:

"(p)(1) Effective on the first day of the month in which an annuitant, including a survivor, becomes 62 years of age, the annuity computed under the other subsections of this section and payable to the annuitant shall be reduced (but not below zero) by the amount determined by multiplying the amount of the old-age and survivors insurance benefits which the annuitant is entitled to receive under section 202 of the Social Security Act for the such month, if any, by a fraction—

"(A) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service which is referred to in paragraph (2) of this subsection for years before the calendar year in which such month occurs, and

"(B) the denominator of which is the total of all wages (within the meaning of section 209 of the Social Security Act) and all self-employment income (within the meaning of section 211(b) of the Social Security Act)—

"(i) of such annuitant, or

"(ii) in the case of a survivor, of the participant on whose service the annuity is based,

credited for years after 1936 and before the calendar year in which such month occurs.

"(2) The service referred to in paragraph (1)(A) of this subsection is service which is covered by amounts deducted and withheld as provided in section 211(d), is service described in subparagraphs (C) through (G) of section 210(a)(5) of the Social Security Act, and is taken into account for the purpose of computing the annuity to which paragraph (1) of this subsection applies."

TREATMENT OF CERTAIN RECALL SERVICE

SEC. 404. Section 271 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1052; 50 U.S.C. 403 note) is amended by adding at the end thereof the following new subsection:

"(c) Subsection (b) shall not apply to an annuitant who becomes subject to title III of this Act by reason of recall service."

CONFORMITY BETWEEN THE FEDERAL RETIREMENT SYSTEM AND THE CENTRAL INTELLIGENCE AGENCY PENSION SYSTEM

SEC. 405. Section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new subsection:

"(c) The President shall maintain, under the same conditions and in the same manner as provided in subsections (a) and (b), existing conformity between the Federal Retirement System provided in chapter 84 of title 5, United States Code, and the Central Intelligence Agency Pension System provided in title III of this Act."

CENTRAL INTELLIGENCE AGENCY PENSION SYSTEM

SEC. 406. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended by adding at the end thereof the following:

"TITLE III—CENTRAL INTELLIGENCE AGENCY PENSION SYSTEM "ESTABLISHMENT

SEC. 301. (a) There is hereby established a Central Intelligence Agency Pension System.

"(b)(1) Except as otherwise specifically provided in this title or any other provision of law, all participants in the Central Intelligence Agency Pension System shall be subject to the provisions of chapter 84 of title 5, United States Code, and shall be treated in all respects as persons whose participation in the Federal Retirement System provided in that chapter is required by section 8402 of such title.

"(2) Participants in the Central Intelligence Agency Pension System may not make an election authorized by section 8418(c) of title 5, United States Code, and shall not be entitled to any benefits under chapter 84 of such title which result from such an election.

"DEFINITIONS

"SEC. 302. As used in this title, unless otherwise specified—

"(1) the term 'annuity' means the annuity which is described in subchapter II of chapter 84 of title 5, United States Code, and is payable to a Pension System participant;

"(2) the term 'dynamic assumptions' has the same meaning as provided in section 8401(9) of title 5, United States Code;

"(3) the term 'Fund' means the Central Intelligence Agency Retirement and Disability Fund maintained by the Director pursuant to section 202;

"(4) the term 'normal cost' means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Director in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay, and shall be used to value the cost of the System for all purposes for which the cost of the System is required to be determined;

"(5) the term 'Pension System participant' means a person who participates in the Central Intelligence Agency Pension System;

"(6) the term 'supplemental liability' means the estimated excess of—

"(A) the actuarial present value of all future benefits payable from the Fund under this title, over

"(B) the sum of—

"(i) the actuarial present value of the future contributions to be made on behalf

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November 7, 1985

of participants pursuant to section 305(b)(2)(A) of this Act; and

"(ii) the balance in the Fund attributable to the System on the date the supplemental liability is determined or to contributions made under section 204(b) or 205 of the Federal Employees' Retirement Contribution Temporary Adjustor Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note); and

"(7) the term 'System' means the Central Intelligence Agency Pension System.

"PENSION SYSTEM PARTICIPANTS"

"Sec. 303. (a) Except for persons excluded by subsection (b), all officers and employees of the Agency, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954 shall be Pension System participants.

"(b) Participants in the Central Intelligence Agency Retirement and Disability System who were participants in such system on or before December 31, 1983, and who have not had a break in service in excess of 1 year since that date, are not made Pension System participants by this section, without regard to whether they are subject to title II of the Social Security Act.

"SPECIAL RULES RELATING TO THE ENTITLEMENT OF SECTION 303 EMPLOYEES TO ANNUITY"

"Sec. 304. (a) Any Pension System participant who is described in section 203 and retires voluntarily or mandatorily under section 102(c) of the National Security Act of 1947 (61 Stat. 498; 50 U.S.C. 403(c)) or section 233 or 235 of this Act under conditions authorizing an immediate annuity for participants in the Central Intelligence Agency Retirement and Disability System shall be entitled to an immediate annuity computed under subsections (a)(2), (a)(3), and (c) of section 8413 of title 5, United States Code. The annuity shall not be subject to reduction under section 8414 of such title.

"(b) A Pension System participant who is entitled to an immediate annuity under subsection (a) shall be entitled to receive an annuity supplement while under 62 years of age. The annuity supplement shall be based on the total creditable service of the participant and shall be computed and increased in accordance with section 8413(b) of title 5, United States Code.

"(c)(1) Any Pension System participant described in section 203 may be retired under the conditions specified in sections 233 and 235(a) and shall be retired under the conditions specified in section 235(b). Each Pension System participant so retired shall receive benefits under this title.

"(2) For the purpose of this subsection—

"(A) the term 'participant', as used in the sections referred to in paragraph (1), means a Pension System participant described in section 203; and

"(B) the term 'system', as used in section 233, means the Central Intelligence Agency Pension System.

"(d) Any Pension System participant described in section 203 who is separated under the conditions specified in section 234(a) shall be entitled to a deferred annuity under section 8412 of title 5, United States Code, unless the Director determines that the separation was based in whole or in part on disloyalty to the United States.

"FUNDING"

"Sec. 305. (a) All payments under subchapters II, IV, and VII of chapter 84 of title 5, United States Code, based on the service shall be paid by the Director from the Fund.

"(b)(1) All sums required to finance the payments referred to in subsection (a) shall be credited to the Fund.

"(2) The sums referred to in paragraph (1) are—

"(A) amounts which are determined by the Director to be necessary to defray the normal cost of the benefits, other than disability benefits, payable under this title to Pension System participants;

"(B) the sums which are transferred to the Fund by the Secretary of the Treasury to amortize over 30 years the supplemental liability of the System which is attributable to Pension System participants, as computed at the end of each fiscal year beginning after September 30, 1987; and

"(C) the sums which are transferred by the Secretary of the Treasury to the Fund out of funds appropriated to the Department of Defense for the purpose of paying the costs incurred during any year which relate to the creditable military service of Pension System participants.

"(c) At least every 5 years, the Secretary of the Treasury shall prepare periodic valuations of the Central Intelligence Agency Pension System and shall advise the Director of (1) the normal cost of the System, without regard to the cost of disability payments, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.

"THRIFT SAVINGS PLAN"

"Sec. 306. (a) The Director, in consultation with the Executive Director of the Federal Retirement Thrift Investment Board, may—

"(1) maintain exclusive records relating to Pension System participants' elections, contributions, and accounts under the Thrift Savings Plan provided in subchapter III of chapter 84 of title 5, United States Code; and

"(2) provide for investments under the Thrift Savings Plan to be made and accounted for by such Executive Director in aggregate amounts for the Central Intelligence Agency Pension System.

"(b) The Director may make the necessary allocations of earnings, losses, and charges to individual accounts of Pension System participants under the Thrift Savings Plan.

"(c) The Executive Director of the Federal Retirement Thrift Investment Board may not exercise authority under subchapter III or VIII of chapter 84 of title 5, United States Code, in the case of the Central Intelligence Agency Pension System to the extent that the Director exercises authority provided in subsections (a) and (b).

"DISABILITY"

"Sec. 307. The Director, instead of the Office of Personnel Management, may contract with an administrator of benefits (as defined in section 8441(1) of title 5, United States Code), for the purpose of administration of benefits under subchapter V of chapter 84 of such title with respect to Pension System participants.

"GENERAL AND ADMINISTRATIVE PROVISIONS"

"Sec. 308. (a) The Director shall administer the Central Intelligence Agency Pension System except for matters (other than matters to which section 306 of this Act applies) relating to the Thrift Savings Plan provided in subchapters III and VIII of chapter 84 title 5, United States Code, and matters (other than matters to which section 307 of this Act applies) relating to disability benefits under subchapter V of such chapter. The Director shall, with respect to the Central Intelligence Agency Pension System, perform the functions and exercise the authority vested in the Office of Personnel Management or the Director of such Office by such chapter 84, and may issue regulations for such purposes.

"(b) Section 201(c) shall apply to determinations of the Director under the Central In-

telligence Agency Pension System which, if made by the Office of Personnel Management under chapter 84 of title 5, United States Code, the Director of such Office, or an administrator of benefits (as defined in section 8441(1) of such title), would be appealable to the Merit Systems Protection Board, to such Office, or to the Director of such Office.

"TRANSITION PROVISIONS"

"Sec. 309. The Director shall issue regulations providing for the transition from the Central Intelligence Agency Retirement and Disability System to the Central Intelligence Agency Pension System. For this purpose, the provisions of sections 8471, 8472, and 8473 of title 5, United States Code, relating to the Civil Service Retirement and Disability System and contributions, deposits, pay computations, service credit, and disability retirement under such system shall be deemed to refer in like manner to the Central Intelligence Agency Retirement and Disability System and contributions, deposits, pay computations, service credit, and disability retirement thereunder.

"REFERENCES IN OTHER LAWS"

"Sec. 310. References made to participation in the Federal Retirement System in sections 8113(c), 8475, 8704(a)(2), and 8705(e) of title 5, United States Code, section 210(a)(5)(H) of the Social Security Act, and section 3121(b)(5)(H) of the Internal Revenue Code of 1954 shall be deemed to refer to participation in the Central Intelligence Agency Pension System."

Redesignate the succeeding title and sections accordingly.

Mr. EAGLETON. Mr. President, the purpose of this amendment is to revise the current CIA Retirement and Disability System to provide retirement provisions to personnel covered by that system in the future, who were first hired after December 31, 1983, benefits comparable to the provisions Senator LUGAR's amendment provides to new Foreign Service personnel hired after that same date.

I point out that when it was established in 1964, the CIA system was patterned after the Foreign Service System. Furthermore, the proposed benefit provisions are the same as we are providing for Federal law enforcement officers.

AMENDMENT NO. 979

(Purpose: To improve the administration of retirement benefits for officers and employees of the Central Intelligence Agency)

Mr. DURENBERGER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. Is this an amendment to the amendment?

Mr. DURENBERGER. This is an amendment to the amendment by the Senator from Missouri.

The PRESIDING OFFICER. Is all time yielded back on the first amendment?

Mr. STEVENS. All time is yielded back.

Mr. EAGLETON. We yield back our time.

The PRESIDING OFFICER. The clerk will report.

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The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) (for himself and Mr. HOLLINGS) proposes an amendment numbered 979 to amendment No. 978.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, immediately following line 1, insert the following:

ADMINISTRATION OF THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM FOR EMPLOYEES OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 407. Section 8347 of title 5, United States Code, is amended by adding at the end thereof the following new subsection (in):

"(1) Notwithstanding any other provision of this subchapter, the Director of Central Intelligence shall—

"(A) administer the provisions of this subchapter with respect to officers and employees of the Central Intelligence Agency; and

"(B) perform the functions and duties which would otherwise be performed with respect to such officers and employees by the Office of Personnel Management or the Director of such Office under this subchapter.

"(2) The Director of the Office of Personnel Management shall furnish such information and services to the Director of Central Intelligence as the Director of Central Intelligence determines necessary to carry out paragraph (1) of this subsection.

REPORT ON EXPANSION OF COVERAGE OF THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 408. (a) The Director of Central Intelligence shall determine whether it would be appropriate to expand the coverage of the Central Intelligence Agency Retirement and Disability System to include any officers and employees of the Central Intelligence Agency who are subject to the Civil Service Retirement and Disability System under subchapter III of chapter 23 of title 5, United States Code.

(b) Not later than 1 year after the date of the enactment of this Act, the Director of Central Intelligence shall transmit to the Congress the Director's determinations under subsection (a) and any recommendations for legislation which the Director considers appropriate and relate to such determinations.

Mr. DURENBERGER. Mr. President, I rise on behalf of myself and my colleague, Senator HOLLINGS, to amend the amendment of the Senator from Missouri.

Let me say first that I do this in a spirit of improving an already excellent amendment. I do it also with a great deal of admiration and respect for anyone who has to occupy the position of chairing the Subcommittee on Civil Service, Post Office, and General Services. It is a subcommittee that handles issues that only a few people care about and that nobody ever sends thank-you notes about.

So on behalf of those of us who are on their subcommittee, I publicly compliment the Senator from Alaska and the Senator from Missouri for taking on a series of headaches that nobody

else would ever want to take on and for producing in the underlying bill here, today an incredible piece of legislation. It may end up pleasing no one but it will be a testimonial, by that very fact, to their skill as legislators in this very difficult area.

Senator EAGLETON's amendment is important and must be passed. It covers two areas not included in the pending legislation—coverage of Central Intelligence Agency personnel under the new Civil Service Retirement System and inclusion of overseas agency personnel under the so-called special early retirement provisions for high risk occupations. But, unfortunately, the amendment does not go quite far enough to cover the unusual circumstances affecting CIA personnel.

As you are aware, the CIA has come under a great deal of public and congressional scrutiny in the past decade and certainly in the past week. Unfortunately, what you are not seeing or hearing are the thousands of actions they are doing right on a daily basis. In particular, we are consistently demanding that our intelligence officers abroad provide more and more information on hostile intentions, especially those of terrorists.

This involves risk. More and more of our CIA field personnel are being subjected to threats and abuse. Two years ago we witnessed an example of this when a number of them were killed by a terrorist bombing of the U.S. Embassy in Beirut. And as their assignment become more hazardous and demanding, the special mental and physical requirements necessary of the intelligence officer increase dramatically.

To meet this standard the CIA must continually replace its officers overseas with younger personnel whose identities are not known and who can stand up to the stresses of their environment. To do this the CIA currently allows these officers to retire at age 50. The Director of Central Intelligence can demand that they retire at age 55.

Yet making these demands on our CIA personnel forces them out at an age where job opportunities are limited. In addition, their skills are unique and we vigorously discourage them from revealing or marketing their expertise in new careers. That is why we must be careful not to send a false message—that their Government demands the risk, but is unwilling to pay the price. If we are not going to pay these people what they deserve up front, then we must provide for them at the end.

I am pleased to say, Mr. President, that there is nearly unanimous agreement on this point and that the pending amendment will continue the early retirement program for our overseas intelligence officers. But there are two modifications necessary if we are to truly insure the security, integrity, and effectiveness of the Central Intelligence Agency's retirement system.

First, this amendment provides for full self administration by the CIA of its retirement and disability programs. This is critical if the Agency is to maintain confidentiality for its employees who are serving or will serve—literally a life and death need in this time of international terrorism. Under current law, only overseas personnel records are strictly maintained in-house by the Agency. In the Eagleton amendment, this is expanded to cover future nonoverseas employees. But a critical gap continues for the thousands of current nonoverseas personnel whose records are maintained by OPM and other nonsecure agencies around Washington.

Second, the amendment requires the Director of Central Intelligence to study the current CIA Retirement Program and determine what changes and expansions are appropriate. It has been 20 years since such a major review has been done and it is clear to this Senator that modifications are necessary.

In our discussions with the Government Affairs Committee and the CIA, we have concluded that it may be necessary to expand the current CIA Retirement and Disability Program to meet special needs. Is this also the understanding of the Senator from Missouri?

Mr. EAGLETON. Yes, it is.

Mr. DURENBERGER. We also believe that it is important that we conduct such a review of the CIA Retirement and Disability System and make appropriate changes within the next year. Does the Senator also believe this is correct?

Mr. EAGLETON. Yes, I do.

Mr. DURENBERGER. I thank the Senator.

Mr. President, I had also intended to propose that we prevent the deterioration of pension benefits for future overseas and cover personnel. Currently, the average CIA officer will retire with a pension that will replace 47 percent of this presentment salary.

Under the pending legislation, this same employee will retire with only a 41-percent replacement rate. But by slightly adjusting the pension accrual rate from 1 percent to 1.3 percent, this slip in benefits could be avoided. That is what I think should be done but in the interest of seeing this legislation enacted quickly, I will not make that proposal today. But I do expect the DCI to review this in the context of his study.

Our intelligence officers face hazards unknown to other overseas or law enforcement personnel. They and their families must lead their lives undercover, never telling friends and acquaintances of their true mission and responsibilities. In a world filled with terrorism, their very safety and lives are at stake if their cover is revealed. Most of these officers also work two jobs—their cover employment and their agency duties. And, finally, the

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nature of this work is very exacting, dangerous, and difficult. In short, it is unlike any other work in government.

Mr. President, there is a great need for a strong and effective human intelligence service in today's international environment. My service on the Select Committee on Intelligence has made me well aware of how much we depend on the fine men and women of our intelligence community. Their responsibilities are unique and their contribution is unparalleled. It is my determination that they, in turn, will be able to depend on us. I urge that the Senate support me in this effort and adopt this amendment.

Mr. HOLLINGS. Mr. President, I rise in support of the amendment of the chairman of the Intelligence Committee.

The men and women who serve in the Central Intelligence Agency are some of the finest we have in public service. They are first class in terms of experience, expertise, and special skills. Their responsibilities are difficult, unique, and often life-threatening. And, their successes are never publicly acknowledged. They are truly the front line of a "silent war" against terrorism, subversion, and attacks upon the United States and its allies.

The amendment before the Senate does two important things: it allows the CIA to administer its retirement system in order to provide adequate security of the names, addresses, and occupations of its employees; and it instructs the Director of Central Intelligence to review the existing CIA Retirement and Disability System and recommend any necessary expansions and modifications.

Mr. President, our overseas intelligence officers face hazards unknown to the Foreign Service or law enforcement personnel. They and their families must lead their lives undercover, never revealing their true mission to friends or acquaintances. If their cover is ever revealed their very safety and lives are at risk. At this moment there is a memorial at Langley for over 70 intelligence officers who have given their lives in service to this country. More names will be added as a result of the Embassy bombing in Beirut and other recent acts of terrorism. And, finally, most of these officers work two jobs—their cover employment and their agency duties.

In short, the work of an intelligence officer is very exacting, difficult, and dangerous. It is unlike any other work in government. Yet the Government cannot offer top salaries to this talented and highly skilled group of professionals. Instead, we have to largely rely on their sense of duty, loyalty, and idealism.

But we can do one thing—we can prevent their pension from deteriorating in the future, as the pending legislation allows. That is what Senator DURENBERGER and I intended to do today. But we see which way the current is running here and in the inter-

est of comity will revisit that issue in the future. But our message is clear—we intend to work on this issue next year. We intend to do our best to assure this cadre of professionals that we understand and appreciate their contribution.

Mr. President, this amendment rests on the merits and should be passed. It does not violate the spirit of this legislation and it does not violate the spirit of reform. I have been involved in civil service pension reform for years and will match my record against any in this Chamber. I led the fight to eliminate the "1 percent kicker" in 1976. I led the fight to end the "look back" provision in 1980. I led the fight to end the "dual COLA's" in 1981. I know what good reform is and I also know the political price we often have to pay back home to get it enacted.

But let me tell you that the bandwagon for reform in this legislation should not run over good solid public policy. Our intelligence officers deserve support now and in the future. I urge my colleagues to enact this amendment.

Mr. DURENBERGER. I believe that this amendment has been cleared with both the Senator from Missouri, the proponent of the amendment it seeks to amend, and our leader from Alaska.

The PRESIDING OFFICER. Do the Senators yield back their time.

Mr. STEVENS. Mr. President, I have no objection to the amendment to the amendment or to the basic amendment and urge their adoption. I yield back the remainder of our time.

The PRESIDING OFFICER. All time being yielded back, the question is on the amendment of the Senator from Minnesota.

The amendment (No. 979) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri, as amended.

The amendment (No. 978) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 980

(Purpose: To amend the Foreign Service Act of 1980 to reform the Foreign Service Retirement and Disability System)

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Indiana [Mr. LUGAR] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. LUGAR, proposes an amendment numbered 980.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Immediately following title III, insert the following:

TITLE IV—FOREIGN SERVICE RETIREMENT

REDESIGNATION OF CERTAIN PROVISIONS OF THE FOREIGN SERVICE ACT OF 1980

SEC. 401. (a) Chapter 8 of title I of the Foreign Service Act of 1980 (94 Stat. 2102; 22 U.S.C. 4041 et seq.) is amended—

(1) by striking out the caption of such chapter and inserting in lieu thereof the following:

"CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY

"SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM"

(2) by striking out "this chapter" each place it appears and inserting in lieu thereof "this subchapter"; and

(3) by inserting "under this subchapter" after "payable from the Fund" each place it appears.

(b)(1) Section 808(d) of such Act (94 Stat. 2110; 22 U.S.C. 4048(d)) is amended—

(A) by striking out "such subchapter" each place it appears in the second and third sentences and inserting in lieu thereof "subchapter I of such chapter 8"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "subchapter".

(2) Section 808(e) of such Act (94 Stat. 2111; 22 U.S.C. 4048(e)) is amended by striking out "Act" each place it appears and inserting in lieu thereof "subchapter".

(c) Section 809(a) (94 Stat. 2111; 22 U.S.C. 4049(a)) is amended by striking out "Act" and inserting in lieu thereof "subchapter".

CONTRIBUTIONS TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 402. Section 805 of the Foreign Service Act of 1980 (94 Stat. 2104; 22 U.S.C. 4045) is amended—

(1) by inserting "Except as provided in subsection (g)," before "7 percent" in the first sentence of subsection (a); and

(2) by adding at the end thereof the following new subsection (g):

"(g)(1) In the case of an employee or member of the Service who was a participant subject to this subchapter before January 1, 1984, and whose service—

"(A) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, and

"(B) is not creditable service for any purpose under subchapter II of this chapter or chapter 84 of title 5, United States Code,

there shall be deducted and withheld from the basic pay of the employee or member of the Service under this subsection during any pay period only the amount computed pursuant to paragraph (2).

"(2) The amount deducted and withheld from the basic pay of an employee or member of the Service during any pay period pursuant to paragraph (1) shall be the excess of—

"(A) the amount determined by multiplying the percent applicable to the employee or member of the Service under subsection (a) by the basic pay payable to the employee or member of the Service for such pay period, over

1. BASIC ANNUITY PLAN

February 28, 1986

A. Eligibility	Federal employees covered by Social Security (generally, those hired Jan. 1, 1984 & after).												
B. Employee contributions	1.3% of pay in 1987, 0.94% in 1988-89, and 0.8% after 1989.												
C. Vesting of retirement benefits	5 years service.												
D. Salary base	Average of high-3 yrs salary. (Part-time pay is annualized, with service pro-rated.)												
E. Retirement benefit	1% of high-3 pay times years of service. Unused sick leave is not credited.												
F. Eligibility for retirement													
1. Unreduced	Age 62 & 5 years service, age 60 & 20 years service, or Minimum retirement age & 30 years service--												
	<table> <tr> <th>Year of birth</th><th>Minimum retirement age</th></tr> <tr> <td>Before 1948</td><td>55</td></tr> <tr> <td>1948-1952</td><td>55 & 2 mo. to 55 & 10 mo.</td></tr> <tr> <td>1953-1954</td><td>56</td></tr> <tr> <td>1955-1969</td><td>56 & 2 mo. to 56 & 10 mo.</td></tr> <tr> <td>1970 & after</td><td>57</td></tr> </table>	Year of birth	Minimum retirement age	Before 1948	55	1948-1952	55 & 2 mo. to 55 & 10 mo.	1953-1954	56	1955-1969	56 & 2 mo. to 56 & 10 mo.	1970 & after	57
Year of birth	Minimum retirement age												
Before 1948	55												
1948-1952	55 & 2 mo. to 55 & 10 mo.												
1953-1954	56												
1955-1969	56 & 2 mo. to 56 & 10 mo.												
1970 & after	57												
2. Reduced	Age 57 & 10 years service.												
3. Involuntary	Age 50 & 20 yrs. service. Any age & 25 yrs. service.												
4. Deferred vested	Unreduced benefit at age 62 if employee had at least 5 years of service at separation.												
G. Amount of retirement benefits													
1. Unreduced	Based on accrual rate, without reduction. Supplement to age 62, equal to estimated Social Security benefit paid at age 62, paid to employees with 30 years service.												
2. Reduced	Reduced 5% for each year under age 62.												
3. Involuntary	Based on accrual rate without reduction. Supplement paid after Minimum retirement age.												
4. Deferred vested	Full accrued benefit payable at age 62. Reduced benefit can be elected when former employee with 10 years of service reaches minimum retirement age.												
H. Refunds	Option to withdraw contributions at separation with benefits forfeited.												
I. Cost-of-living adjustments (COLAs)	1. No COLA for regular retirees up to age 62. 2. COLA of CPI minus 1 percentage point for retirees over age 62, special groups who may retire voluntarily before age 55, disabled or survivors.												
J. Optional forms of benefits	1. Joint-&-survivor annuity, automatic if married unless jointly rejected. 2. Any other option that is equivalent to a life annuity and offered by Office of Personnel Management.												

2. THRIFT-SAVINGS PLAN

February 28, 1986

A. Contributions (tax-deferred to the extent permitted for Sect. 401(k) plans :

Employer automatically contributes 1 percent
of pay. Pay includes scheduled amounts that
are above any temporary pay cap.

Active employees may contribute up to 10% of
pay, including employees covered by CSRS.
Employer matches contributions of employees
who are not covered by CSRS, as follows--

First 3% of pay.....\$1.00 per \$1.00
Next 2% of pay.....\$.50 per \$1.00.

Thus employer contributes maximum 5% of pay.

Amounts employee does not elect to contribute not contributed may
be carried over to next year only, and may
be contributed outside the usual 10%-of-pay
limit on employee contributions.

B. Eligibility and vesting

C. Investments

1. Employee may
elect to invest
own account in:

2. Phase-in of
private-sector
investment funds
in early years:

D. Payout of employee retirement accounts

Employee may elect payout of vested
account balance:

1. As annuity (for life or fixed term).
2. In cash (at retirement age, death or
disability).
3. As rollover to IRA (at termination of
employment or death).

Active employees may not withdraw funds.

Program of hardship loans to employees is
to be established by January 1, 1988.

3. SURVIVOR BENEFITS

February 28, 1986

A. Preretirement death benefit, spouse or former spouse

At death of married employee with 18 months of service, surviving spouse gets--

1. Lump sum of \$15,000 (indexed to CPI) and one-half employee's annual rate of pay. Spouse may elect payment as an annuity.
2. Annuity equal to 50% of accrued annuity, if employee had 10 years of service.

These benefits are paid in addition to any Social Security, group life insurance or thrift plan death benefits.

B. Children's benefits, payable at death before or after retirement

Annually adjusted amounts, offset by Social Security children's benefits, varying by number of children & whether or not orphaned. In 1985 amount is about \$2,800 per child, up to 3 children, or \$3,400 if orphaned. Payable to unmarried child up to age 18, age 22 if in school, or any age if disability started before age 18.

C. Optional post-retirement death benefit, spouse or former spouse

Employee's annuity is reduced to provide annuity to surviving spouse.

Automatic if married unless jointly rejected by both spouses.

D. Special provisions for surviving former spouses, or new spouses due to marriage after retirement.

Benefits are the same as for surviving spouses, subject to elections, court orders and deposits in certain cases.

4. DISABILITY BENEFITS

February 28, 1986

A. Administration and eligibility	Disability annuity paid if employee has 18 months service and has used all sick leave.
B. Definition of disability	<p>Employee must meet either of two definitions of disability--</p> <ol style="list-style-type: none"> 1. Social Security definition: Unable to work in substantial gainful activity. 2. Occupational definition: Unable to do any job for which the employee is qualified in the same agency and commuting area, at the same grade level. <p>During disability, total income from work may not exceed 80% of pay level for former job, and employee may be given physical exams.</p>
C. Disability benefit amounts	<ol style="list-style-type: none"> 1. In first year after onset: 60% of high-3 pay minus any Social Security benefit payable to the employee. 2. After 1st year: <ul style="list-style-type: none"> -- If disabled by Social Security definition: Step-rate formula such as: 8% of high-3 plus 24% of (high-3 in excess of 1/3 of Social Security wage base). -- If disabled by occupational definition: Formula of approximately 40% of high-3, payable to age 62.
D. Cost-of-living adjustments (COLAs) during disability	Benefit payable increases at rate of increase in CPI, minus 1 percentage point.
E. Retirement benefits after disability	<p>During disability, employee's gets credit for years of service toward basic annuity formula. High-3 for purposes of the formula goes up at rate of increase in CPI-1 percentage point.</p> <p>At end of disability benefit period, benefits are converted to retirement benefits based on age & service at that time, but limited to disability benefit then being paid.</p>

F. MISCELLANEOUS PROVISIONS

February 28, 1984

A. Treatment of special groups of employees

1. Firefighters,
law enforcement
officers &
air traffic
controllers

Unreduced benefit at age 50 & 25 years of service, or any age & 25 years service.

Benefit is 1.7% of high-3 pay times years of service up to 20, 1.0% times years over 20. Supplement paid to age 62, equals estimated Social Security benefit from federal service.

2. Military reserve technicians

-- Voluntary retirement

Unreduced benefit at Minimum retirement age increasing from 55 to 57, with 30 years svc. and with supplement payable to age 62 equal to estimated Social Security benefit.

-- Involuntary retirement

Employee separated due to termination of military service after age 50 & 25 years of svc. gets unreduced annuity with supplement to 62.

3. Members of Congress & Congress staff

B. Treatment of non-federal employees as federal for purposes of retirement

Newly hired employees of D.C. government are excluded from the program, effective 10/1/87. Other non-federal employees retain current coverage.

C. Transfers of current employees covered by CSRS to new program

Current employees may elect during 1987 to join social security and the new plan--

- * Credit in current program stops, but the high-3 pay continues to run.
- * All service counts toward service needed for retirement, disability or vesting under both CSRS and new plan.
- * Employee retains survivor coverage from current plan, gets disability coverage from new plan only.
- * Unused sick leave is credited based on the lower of the two amounts accumulated at date of transfer or retirement.
- * Social security windfall-benefit reduction waived after 5 years in new plan.

D. Treatment of employees re-hired who were not covered earlier by Social Security

Employees with break-in-service up to 1 year stay out of Social Security and are covered by CSRS.

Employees with break-in-service over 1 year are covered by Social Security.

- Those with 5 or more years of service under CSRS are covered by CSRS with 100% offset of Social Security.
- Those with less than 5 years of service under CSRS are covered by new plan.

E. Transition from interim plan in effect 1984-86

New plan's effective date is January 1, 1987.

Employees on January 1, 1984 who became covered by Social Security by law get CSRS benefits, offset by 100% of Social Security benefits attributable to federal service, and pay CSRS contributions, offset by Social Security contributions.

During 1984-86 newly hired employees get CSRS benefits, offset by 100% of Social Security benefits earned in federal service, and pay CSRS contributions, offset by Social Security contributions.

**"FRONT LOADED" ACCRUAL RATE FOR SPECIAL SERVICES:
IMPLICATIONS FOR PRE-1984 EMPLOYEES WHO "CROSS OVER"
TO THE NEW RETIREMENT SYSTEM.**

Section 8415(d) of the draft bill (p.26, April 3 discussion draft) establishes a defined benefit accrual rate of 1.7% of final average salary for each of the first 20 years of service by a "special service" employee, with a 1% accrual rate for any additional service. The Foreign Service draft amendment would link computation of FS annuities to 8415(d).

Title III of the draft bill (p. 99 et seq.) provides for pre-1984 employees to elect coverage under the new system's rules. Sec. 302 (a)(1)(B) (p.104) states that pre-1984 service is creditable for the purposes of establishing annuity eligibility.

Employees who elect to "cross over" get an annuity computed under two different formulas. The annuity for pre-crossover experience is computed by Chapter 83, old system rules. The annuity for post-crossover experience is computed under Chapter 84 rules. (Sec. 302 (a) (4) and (5), p. 105-106).

Post-crossover service is thus added to pre-crossover service to see if the employee has the total service needed to retire. But, for purposes of annuity computation, no such add on is mandated.

Therefore, a special service employee who crosses over will receive up to 20 years of annuity benefit at the 1.7% rate, regardless of how much service he or she had before crossover.

Example: (1) Able joins the FS in 1967 and has 20 years of service in the FS when he crosses over in 1987. He retires in 2007 with 40 years service. His annuity is $20 \times 2\%$ (for the pre-crossover service), plus $20 \times 1.7\%$, or 74% altogether for 40 years service. (If Able's pre-crossover service were counted for purposes of determining his annuity computation for new system service, his 20 years of new system service would be computed at 1%, and his total annuity would be 60% of his final average salary.)

(2) Baker joins the FS in 1977 and has 10 years of pre-crossover service. He retires in 2007 with 30 years of service. His annuity is $10 \times 2\%$ plus $20 \times 1.7\%$, or 54% altogether. If the less generous rule were used, his annuity would be $10 \times 2\%$, plus $10 \times 1.7\%$, plus $10 \times 1\%$, for 47% altogether.)

(3) Charles joins the FS in 1982 and has 5 years of pre-crossover service. He retires in 2007 with 25 years of service. His annuity is $5 \times 2\%$ plus $20 \times 1.7\%$, or 44% altogether. If the less generous rule were used, his annuity would be $5 \times 2\%$, plus $15 \times 1.7\%$, plus $5 \times 1\%$, for 40.5% altogether.

(4) Davis, Early, and Fox join the FS in 1987 and serve 40, 30, and 25 years respectively. Their annuities are 54%, 44%, and 39% respectively.

Observations:

As written, the discussion draft is inconsistent in its philosophy with respect to special service annuity computation. The general philosophy, as set down in 8415(d) gives special service employees larger annuities on the assumption that careers will be shorter than normal. Service beyond 20 years thus gets no special bonus, since such service indicates that the employee is approaching more normal career length.

However, for special service employees with the option to crossover, the discussion draft makes no such distinction about shorter or longer careers. Special service employees can get a full 20 years of credit at the higher accrual rate, regardless of how much pre-crossover service they have. Thus Able, in our example above, works 40 years without ever losing his "short career" bonus vis-a-vis his annuity computation.

This approach constitutes an inducement for crossover, of varying intensity: the longer the employee has served; the greater the inducement. An FS employee with 20+ years of service will get up to 14% of salary more on his annuity for his post-crossover service than he would if pre-crossover service were counted against the 20 years of richer treatment in the new system (See Able). Employees with less pre-crossover service derive progressively less extra benefit from this treatment, since they would stand to get some 1.7% post-crossover credit regardless of the rules used (See Charles).

DRAFT

AMENDMENT TO H. R. 3660 (APRIL 3 DISCUSSION DRAFT)

TO ESTABLISH A NEW SUPPLEMENTAL RETIREMENT SYSTEM
FOR MEMBERS OF THE FOREIGN SERVICE
OF THE UNITED STATES

Redesignate title IV as V and immediately following
title III, insert the following:

TITLE IV--FOREIGN SERVICE
RETIREMENT

SEC. 401. SHORT TITLE. This title may be cited as the
Foreign Service Supplemental Retirement System Act of 1986.

SEC. 410. REDESIGNATION OF CERTAIN PROVISIONS OF THE
FOREIGN SERVICE ACT OF 1980.

(a) Chapter 8 of title I of the Foreign Service Act of
1980 (94 Stat. 2102; 22 U.S.C. 4041 et seq.) is amended--

(1) by striking out the caption of such chapter and
inserting in lieu thereof of the following:

"CHAPTER 8--FOREIGN SERVICE
RETIREMENT AND DISABILITY
"SUBCHAPTER I--FOREIGN SERVICE
RETIREMENT AND DISABILITY SYSTEM"

(2) by striking out "this chapter" each place it appears
and inserting in lieu thereof "this subchapter"; and

(3) by inserting "under this subchapter" after "payable
from the Fund" each place it appears.

(b)(1) Section 804(3) of such Act (94 Stat. 2103 ;
22 U.S.C. 4044(3)) relating to the definition of "court"

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is amended by striking out "or of the District of Columbia" and inserting in lieu thereof the following: ", the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by section 201(3) of the Act entitled 'An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes', approved April 11, 1968 (25 U.S.C. 1301(3); 82 Stat. 77)".

(2) Section 808(d) of such Act (94 Stat. 2110; 22 U.S.C. 4048(d)) is amended--

(A) by striking out "such subchapter" each place it appears in the second and third sentences and inserting in lieu thereof "subchapter I of such chapter 8"; and

(B) by striking out "Act" each place it appears and inserting in lieu thereof "subchapter".

(3) Section 808(e) of such Act (94 Stat. 2111; 22 U.S.C. 4048(e)) is amended by striking out "Act" each place it appears and inserting in lieu thereof "subchapter".

(4) Section 809(a) of such Act (94 Stat. 2111; 22 U.S.C. 4049(a)) is amended by striking out "Act" and inserting in lieu thereof "subchapter".

(c) Add the following at the end of paragraph (10) in section 804 (94 Stat. 2104; 22 U.S.C. 4044(10)) of such Act and at the end of subsections 814(a)(1) and (b)(1) (94 Stat. 2113 and 2115; 22 U.S.C. 4054(a)(1) and (b)(1), respectively),

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and before the last sentence in subsection 815(i) (94 Stat. 2117;; 22 U.S.C. 4055(i)) of such Act:

"(The 'creditable service' referred to in the preceding sentence means service that is creditable under both subchapters I and II of this chapter.)".

SEC. 411. CONTRIBUTIONS TO THE FOREIGN SERVICE
RETIREMENT AND DISABILITY SYSTEM.

Section 805 of the Foreign Service Act of 1980 (94 Stat. 2104; 22 U.S.C. 4045) is amended--

(1) by inserting "Except as provided in subsection (g)," before "7 percent" in the first sentence of subsection (a); and

(2) by adding at the end thereof the following new subsection (g):

"(g) Effective with respect to pay periods beginning after December 31, 1986, in administering this section with respect to an employee or member of the Service who was a participant subject to this subchapter before January 1, 1984, and whose service--

"(A) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, and

"(B) is not creditable service for any purpose under subchapter II of this chapter or chapter 84 of title 5, United States Code,--

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contributions to the fund and interest thereon shall be computed as if section 8334(k) of title 5, United States Code, were applicable, unless such an individual has made an election to become subject to subchapter II comparable to the election described in paragraph (4) of such section 8334(k)."

SEC. 412. OFFSET OF ANNUITY BY THE AMOUNT OF
SOCIAL SECURITY BENEFITS.

Section 806 of the Foreign Service Act of 1980 (94 Stat. 2106; 22 U.S.C. 4046) is amended by adding at the end thereof the following new subsection:

"(m) The annuity or survivor annuity payable to any individual under this subchapter beginning with the month in which such individual attains the minimum age for old age benefits, or first becomes eligible, or would upon proper application become eligible for disability or survivor benefits based on the service of any individual under this subchapter shall be computed as if section 8349 of title 5, United States Code, were applicable, unless the individual on whose service the benefit is based has made an election to become subject to subchapter II comparable to the election described in subsection (d) of such section 8349."

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SEC. 413. 18-MONTH PERIOD TO ELECT SURVIVOR ANNUITY.

Section 806 of such Act (94 Stat. 2109; 22 U.S.C. 4046) is further amended by adding at the end thereof the following:

"(n)(1)(A) A participant--

"(i) who, at the time of retirement, is married,
and

"(ii) who elects at such time (in accordance with subsection (b)) to waive a survivor annuity, may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a reduction under subsection (b) made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the spouse of such participant.

"(B) A participant--

"(i) who, at the time of retirement, is married,
and "(ii) who at such time designates (in accordance with subsection (b)) that a limited portion of the annuity of such participant is to be used as the base for a survivor annuity, may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used. .

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"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of--

"(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the or former participant commences and the date of the election) between the amount paid to such former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing the later election; and

"(ii) interest on the additional cost determined under clause (i) of this subparagraph computed using the interest rate specified or determined under section.

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805(d)(3) for the calendar year in which the amount to be deposited is determined.

"(3) An election by a participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the participant involved elected such annuity at the time of retiring.

SEC. 414. ALTERNATE FORMS OF ANNUITIES.

Section 807 of such Act (94 Stat. 2110; 22 U.S.C. 4047) is amended by adding the following at the end thereof:

"(e)(1) The Secretary of State shall prescribe regulations under which a participant may, at the time of retiring under this subchapter (under than under section 808), elect annuity benefits under this section instead of any other benefits under this subchapter (including survivor benefits) based on the service of the participant.

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"(2) Subject to paragraph (3), the Secretary of State shall by regulation provide for such alternative forms of annuities as the Secretary considers appropriate, except that among the alternatives offered shall be--

"(A) an alternative which provides for--

"(i) payment of the lump-sum credit to the participant; and

"(ii) payment of an annuity to the participant for life; and

"(B) in the case of a participant who is married at the time of retirement, an alternative which provides for--

"(i) payment of the lump-sum credit to the participant; and

"(ii) payment of an annuity to the participant for life, with a survivor annuity payable for the life of a surviving spouse.

"(3) Each alternative provided for under paragraph (2) shall, to the extent practicable, be designed such that the total value of the benefits provided under such alternative (including any lump-sum credit) is actuarially equivalent to the value of the annuity which would otherwise be provided the participant under this subchapter.

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"(4) A participant who, at the time of retiring under this subchapter--

"(A) is married, shall be ineligible to make an election under this section unless a waiver is made under section 806(b)(1)(B); or

"(B) has a former spouse, shall be ineligible to make an election under this section if the former spouse is entitled to benefits under this subchapter (based on the service of the participant) unless a waiver has been made under section 806(b)(1)(C).

"(5) A participant who is married at the time of retiring under this subchapter and who makes an election under this section may, during the 18-month period beginning on the date of retirement, make the election provided for under section 806(n), subject to the deposit requirement thereunder."

SEC. 415. TREATMENT OF CERTAIN RECALL SERVICE.

Section 823 of the Foreign Service Act of 1980 (94 Stat. 2122; 22 U.S.C. 4063) is amended by adding at the end thereof the following new subsection:

"(c) If an annuitant becomes subject to subchapter II of this chapter by reason of recall service--

"(1) subsections (a) and (b) shall not apply to such annuitant; and

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"(2) section 824 shall apply to the recall service as if such service were reemployment."

SEC. 416 REEMPLOYMENT.

Section 824 of the Foreign Service Act of 1980 (94 Stat. 2122; 22 U.S.C. 4064 is amended to read as follows:

"SEC. 824 REEMPLOYMENT.--(a)(1)(A) Except in the case of an annuitant who makes an election under subsection (b), if any employee or member of the Service who has retired and is receiving an annuity under this subchapter or subchapter II of this chapter becomes employed in an appointive or elective position in the Government, payment of any annuity under either subchapter to the annuitant terminates effective on the date of the employment and the reemployment service is considered covered service under the rules of the system under which the appointment is made.

"(B) If annuity is terminated and the individual becomes covered under the same retirement system from which annuity is terminated pursuant to paragraph (A), the individual shall be entitled to a redetermination of rights under that system upon termination of the employment.

"(C) If annuity is terminated and the individual becomes covered under another contributory retirement system

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for Government employees pursuant to paragraph (A), the individual shall be entitled to an annuity under that system commencing on the first of the month following termination of the employment. Such annuity shall be computed under sections 8415(a), 8419 and 8420, as appropriate, of title 5, United States Code, based on the reemployed salary and service. In addition, the individual shall be entitled to a resumption of any annuity terminated by reason of the employment.

"(b)(1) An employee or member of the Service who is entitled to an annuity under this subchapter or subchapter II of this chapter and becomes employed in an appointive or elective position in the Government on a part-time, intermittent or temporary basis may elect to continue to receive either or both annuities as provided in this subsection.

"(2) The total annuity payable under this chapter to an annuitant making an election under paragraph (1) shall be reduced during the part-time, intermittent or temporary employment referred to in such paragraph as necessary to meet the requirements of paragraph (3).

"(3) The sum of --

"(A) the total annuity payable under this chapter to an annuitant making an election under paragraph (1), and

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"(B) the annual rate of pay payable to the annuitant during the part-time or temporary employment referred to in such paragraph may not exceed, in any year, the highest annual rate of pay which is payable during such year for full-time employment in the position in which the annuitant is employed.

"(4) Upon termination of the part-time, intermittent, or temporary employment referred to in paragraph (1), payment of the full annuity of an annuitant who has made an election under paragraph (1) of this subsection shall resume.

"(c) The amount of annuity which has been terminated or reduced under this section by reason of the reemployment of the annuitant and is resumed under this section shall be the amount of the annuity which would have been payable if the annuitant had not accepted the reemployment. The amount of an annuity resulting from a redetermination of rights pursuant to subsection (a) shall not be less than the amount of an annuity resumed under the previous sentence.

"(d) If an individual whose reemployed service is treated as covered service under subsection (a)(1)(A), dies while so reemployed, survivor benefits and lump sum benefits shall be paid under chapter 84, of title 5, United States Code, based on the reemployed salary, service and contributions, as if the annuitant had resumed retired status on the day of death.

"(e) The annuity rights of any employee or member of the Service who is reemployed in the Federal Government shall be determined under this section instead of section 8468 of title 5, United States Code.

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"f) When any such retired employee or member of the Service is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such member the salary of the position in which he or she is serving.

"(g) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed member of the Service or from any other moneys, including annuity payments, payable under this chapter."

SEC. 417. COMPARABILITY BETWEEN THE CIVIL SERVICE SUPPLEMENTAL RETIREMENT SYSTEM AND THE FOREIGN SERVICE PENSION SYSTEM.

Section 827 of the Foreign Service Act of 1980 (94 Stat. 2124; 22 U.S.C. 4067) is amended by adding at the end thereof the following new subsection:

"(c) The President shall maintain, under the same conditions and in the same manner as provided in subsections (a) and (b) existing conformity between the Civil Service Supplemental Retirement System provided in chapter 84 of title 5, United States Code, and the Foreign Service Pension System provided in subchapter II of this chapter."

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SEC. 418. MODERATION OF REMARRIAGE PENALTY.

Such act is further amended by adding the following section immediately foallowing Section 827 of such Act:

"SEC. 828. REMARRIAGE. Notwithstanding any other provision of this subchapter, any benefit payable under this subchapter to a surviving spouse, former spouse, or surviving former spouse that would otherwise terminate if the individual remarried prior to age 60, shall not terminate if the remarriage occurred on or after November 8, 1984, and the individual was age 55 or over on the date of the remarriage."

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SEC. 421. FOREIGN SERVICE PENSION SYSTEM.

Chapter 8 of title I of the Foreign Service Act of 1980 (94 Stat. 2102; 22 U.S.C. 4041 et seq.) is amended by adding at the end thereof the following:

"SUBCHAPTER II--FOREIGN SERVICE PENSION
SYSTEM

"SEC. 851. Establishment.--(a) There is hereby established a Foreign Service Pension System.

"(b)(1) Except as otherwise specifically provided in this subchapter or any other provision of law, all participants in the Foreign Service Pension System shall be subject to the provisions of chapter 84 of title 5, United States Code, and shall be treated in all respects as persons whose participation in the Civil Service Supplemental Retirement System provided in that chapter is required by its terms.

"SEC. 852. Definitions.--As used in this subchapter, unless otherwise specified--

"(1) the term 'annuity' means the annuity which is described in subchapter II of chapter 84 of title 5, United States Code, and is payable to a participant;

"(2) the term 'court order' has the same meaning given in section 804(4);

"(3) the term 'dynamic assumptions' has the same meaning as provided in section 8401(9) of title 5, United States Code.

"(4) the term 'Fund' means the Retirement and Disability Fund maintained by the Secretary of the Treasury

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pursuant to section 802;

"(5) the term 'normal cost' means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Secretary of State in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay, and shall be used to value the cost of the System for all purposes for which the cost of the System is required to be determined;

"(6) the term 'participant' means a person who participates in the Foreign Service Pension System;

"(7) the term 'pro rata share' in the case of any former spouse of any participant or former participant means the percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the service of the participant which is creditable under this chapter is of (B) the total number of years of such service, disregarding extra credit under section 817;".

"(8) the term 'supplemental liability' means the estimated excess of--

"(A) the actuarial present value of all future benefits payable from the Fund under this subchapter, over

"(B) the sum of --

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"(i) the actuarial present value of (A) deductions to be withheld from the future basic pay of participants pursuant to section 855 and (B) contributions for past civilian and military service;

"(ii) the actuarial present value of future contributions to be made pursuant to section 856; and

"(iii) the balance in the Fund attributable to the System on the date the supplemental liability is determined or to the contributions made under section 204(b) or 205 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note); and

"(9) the term 'System' means the Foreign Service Pension System.

"SEC. 853. Participants.--(a) Except for persons excluded by subsection (b), (c), or (d), all members of the Foreign Service, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, who would, but for this section, be participants in the Foreign Service Retirement and Disability System pursuant to section 803 shall be participants in the Foreign Service Pension System.

"(b) Members of the Service who were participants in the Foreign Service Retirement and Disability System on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not made participants in the System by this section, without regard to whether they are subject to title II of the Social Security Act.

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"(c) Individuals who become members of the Service following a separation from Government employment during which they were subject for a total of at least 5 years to the Civil Service, Foreign Service or other contributory retirement system for Government employees established prior to 1984 are not participants in the System. .

"(d) The Secretary may exclude from the operation of this chapter any member of the Foreign Service, or group of members, whose employment is temporary or intermittent, except a member whose employment is part-time career employment.

"SEC. 854. Entitlement to Annuity.--(a)

Any participant who retires voluntarily or mandatorily under section 607, 608, 811, 812 or 813 under conditions authorizing an immediate annuity for participants in the Foreign Service Retirement and Disability System shall be entitled to an immediate annuity computed under section 8415(d) of title 5, United States Code.

"b) A participant who is entitled to an immediate annuity under subsection (a) shall be entitled to receive an annuity supplement while the annuitant is under 62 years of age. The annuity supplement shall be based on the total creditable service of the annuitant and shall be computed in accordance with section 8421(b) of title 5, United States Code.

"(c)(1) Any participant may be retired under the conditions specified in section 811 and shall be retired under the conditions specified in sections 812 and 813 and receive

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benefits under this subchapter.

"(2) For the purposes of this subsection--

"(A) the term 'participant', as used in the sections referred to in paragraph (1), means a participant in the Foreign Service Pension System; and

"(B) the term 'System', as used in those sections, means the Foreign Service Pension System.

"(d) Any participant who is separated for cause under section 610 shall not be entitled to an annuity under this System when the Secretary determines that the separation was based in whole or in part on disloyalty to the United States.

"SEC. 855. Deductions and Withholdings from Pay.--

(a) The employing agency shall deduct and withhold from basic pay of each participant the following percentage of basic pay: 7 1/2 percent reduced by the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1954 (relating to the rate of tax for old age, survivors and disability insurance).

"(b) Amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the U.S. may prescribe.

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"SEC. 856. Government Contributions--(a)

Each agency employing any participant shall contribute to the Fund the normal cost computed in a manner similar to that used under section 8423(a) of title 5, United States Code. The normal cost percentage for the Foreign Service Pension System shall be determined by the Secretary of State.

"(b)(1) The Secretary of State shall compute the amount of the supplemental liability of the Fund as of the close of each fiscal year. The amount of any such supplemental liability shall be amortized in 30 equal annual installments with interest computed at the rate used in the most recent valuation of the System.

"(2) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount of the installment computed under this subsection.

"(3) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall credit to the Fund, as a Government contribution, out of any money in the Treasury of

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the United States not otherwise appropriated, the amount under paragraph (2) of this subsection for such year.

"SEC. 857. Cost-of-Living Adjustments--

Cost-of-living adjustments for annuitants under this System shall be granted under procedures in section 8462, title 5, U.S. Code applicable to special groups of employees under that System such as law enforcement, firefighter and air traffic controller personnel.

"SEC. 858. General And Administrative Provisions.--(a)

The Secretary of State shall administer the Foreign Service Pension System except for matters relating to the Thrift Savings Plan provided in subchapters III and VII of chapter 84 of title 5 U.S. Code. The Secretary of State shall, with respect to the Foreign Service Pension System, perform the functions and exercise the authority vested in the Office of Personnel Management or the Director of such Office by such chapter 84, and may issue regulations for such purposes.

"(b) Determinations of the Secretary of State under the Foreign Service Pension System which, if made by the Office of Personnel Management under chapter 84 of title 5, United States Code, or the Director of such Office, would be appealable to the Merit Systems Protection Board, to such Office, or to the Director of such Office shall, instead, be appealable to the Foreign Service Grievance Board.

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"(c) At least every 5 years, the Secretary of the Treasury shall prepare periodic valuations of the Foreign Service Pension System and shall advise the Secretary of State of (1) the normal cost of the System, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.

"SEC. 859. Transition Provisions.-- The Secretary of State shall issue regulations providing for the transition from the Foreign Service Retirement and Disability System to the Foreign Service Pension System in a manner comparable to the transition of employees now subject to the Civil Service Retirement and Disability System from that System to the Civil Service Supplemental Retirement System. For this and related purposes, references made to participation in the Civil Service Retirement and Disability System in title 5, United States Code, the Social Security Act, and the Internal Revenue Code of 1954 shall be deemed to refer to participation in the Foreign Service Pension System and the Foreign Service Retirement and Disability System, respectively.

"SEC. 860. Former Spouses.-- (a)(1) In the absence of a spousal agreement or court order governing disposition of benefits under this subchapter to a former spouse who was married to a participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 of such years occurring while the participant was

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a member of the Foreign Service, such former spouse is entitled to a share, determined under subsection (a)(2), of all benefits otherwise payable to such participant under this subchapter after the divorce or annulment becomes final and before the former spouse dies or remarries before age 55.

"(2) The share referred to in subsection (a)(1) equals--

"(A) 50 percent if such former spouse was married to the participant throughout the actual years of service of the participant which is creditable under this chapter; or

"(B) a pro rata share of 50 percent if such former spouse was not married to the participant throughout such creditable service.

"(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

"(4) Payments to a former spouse under this section represent income to the former spouse and not to the participant for purposes of the United States Internal Revenue Code. Although payments to a former spouse under this subsection reduce payments to a participant or former participant, such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse or other survivor under this subchapter, and in calculating any reduction in the annuity of the participant to provide survivor benefits under this subchapter.

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"(5) Notwithstanding subsection (a)(1), in the case of any former spouse of a disability annuitant--

"(A) the annuity of the former spouse shall commence on the date the participant would qualify, on the basis of his or her creditable service, for an annuity under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

"(6) Any former spouse who becomes entitled to receive any benefit under this subchapter which would otherwise be payable to a participant or former participant shall be entitled to make any election regarding method of payment to such former spouse that such participant would have otherwise been entitled to elect, and the participant may elect an alternate method for the remaining share of benefits. Such elections shall not increase the actuarial present value of benefits expected to be paid under this subchapter. Notwithstanding the first sentence of this paragraph, a former spouse may not elect a method of payment under subchapter II, chapter 84, of title 5, United States Code, providing for payment of a survivor annuity to any survivor of the former spouse.

"(7) The maximum amount payable to any former spouse pursuant to this subsection shall be the difference, if any,

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between 50 percent of the total benefits authorized to be paid to a former participant by this subchapter, disregarding any apportionment of these benefits to others, and the aggregate payable to all others at any one time.

"(b)(1) In the absence of a spousal agreement or court order governing survivorship benefits under this subchapter to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1), such former spouse is entitled to a share, determined under subsection (b)(2), of all survivor benefits that would otherwise be payable under this subchapter to an eligible surviving spouse of the participant.

"(2) The share referred to in subsection (b)(1) equals--

"(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this chapter; or

"(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service.

"(c) A participant or former participant shall not make any election or modification of election under 5 U.S.C. 8417, 8418, 8433, or other section relating to the participant's account in the Thrift Plan or annuity under the basic plan that would diminish the entitlement of a former spouse to any benefit granted to the former spouse by this section or in a current spousal agreement.

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"(d) If a member becomes a participant under this subchapter after qualifying for benefits under subchapter I and, at the time of transfer, has a former spouse entitled to benefits under subchapter I which, as determined by the Secretary of State, are similar in amount to a pro rata share division under section 814 or 815 and the service of the member as a participant under this subchapter is not recognized in determining that pro rata share, then subsections (a) and (b) of this section shall not apply to such former spouse.

"(e) If a participant dies after completing at least 18 months of service or a former participant dies entitled to a deferred annuity, but before becoming eligible to receive the annuity, and such participant or former participant has left with the Secretary of State a spousal agreement promising a survivor annuity under subchapter IV, chapter 84, title 5, U.S. Code, to a former spouse to whom married for the periods specified in subsection (a)(1), such survivor annuity will be paid under the terms of this subchapter as if the participant had retired on the day of death and elected the survivor annuity.

"SEC. 861. Spousal Agreements.--A spousal agreement is any written agreement (properly authenticated as determined by

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the Secretary of State) between a participant or former participant and his or her spouse or former spouse on file with the Secretary of State. A spousal agreement must be consistent with the terms of the Act and applicable regulations and, if executed at the time a participant or former participant is currently married, must be approved by such current spouse. It may be used to fix the level of benefits payable under this subchapter to a spouse or former spouse."

SEC. 422. TABLE OF CONTENTS. The table of contents in section 2 of such Act is amended--

(a) by striking out the item relating to chapter 8 and inserting in lieu thereof the following:

"CHAPTER 8--FOREIGN SERVICE

RETIREMENT AND DISABILITY

"SUBCHAPTER I--FOREIGN SERVICE

RETIREMENT AND DISABILITY SYSTEM"

(b) by inserting after the item relating to section 827 the following:

"SEC. 828. REMARRIAGE.

"SUBCHAPTER II-- FOREIGN SERVICE PENSION

System

"SEC. 851. Establishment.

"SEC. 852. Definitions.

"SEC. 853. Participants.

"SEC. 854. Entitlement to annuity.

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- "SEC. 856. Government contributions.
- "SEC. 857. Cost-of-living adjustments.
- "SEC. 858. General and administrative provisions.
- "SEC. 859. Transition provisions.
- "SEC. 860. Former spouses.
- "SEC. 861. Spousal agreements."

SEC. 423. EFFECTIVE DATE.

(a) Notwithstanding section 502 of this Act, as redesignated by this amendment, the authority of the Secretary of State to issue regulations under subchapter II of title 8 of the Foreign Service Act of 1980, as added by this title shall have effect on the date of enactment of this Act.

(b)(1) The amendment made by section 413 shall take effect 3 months after the date of enactment of this Act.

(2)(A) Subject to subparagraph (B), the amendment made by section 413 shall apply with respect to participants and former participants who retire before, on, or after such amendment first takes effect.

(B) For the purpose of applying the provisions of paragraph (1) of section 806(n) of the Foreign Service Act of 1980 (as added by subsection 413) to former participants who retire before the date on which the amendment first takes effect--

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(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

(ii) the amount referred to in paragraph (2) of such section 806(n) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

(3) For purposes of this subsection, the term "participant " has the meaning given that term in section 803 of the Foreign Service Act of 1980.

Redesignate the succeeding title and sections accordingly.

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by the bill for special category personnel such as law enforcement, firefighter and air traffic controller personnel. Secondly, like the bill the system would permit Foreign Service members who are retired mandatorily at an early age to receive the basic (mid-tier) benefit based on high-3 salary without penalty for early retirement. The third basic special provision, substantially like the bill, would provide an annuity supplement equivalent to a Social Security benefit based on salary and creditable service--from the date of retirement to age 62 when the annuitant would be eligible for the actual Social Security benefit.

A Section-by-Section analysis follows:

The amendment establishes a new title IV of the bill and renumbers existing title IV and sections accordingly.

Section 401 provides a short title for the new title IV for ease of future reference.

Section 410(a) amends chapter 8 of the Foreign Service Act of 1980, which contains the authority for the existing FSRDS, to designate the existing portion as "Subchapter I" and makes several technical conforming amendments.

Section 410(b)(1) amends the definition of "court" in the current Act to broaden it to include territorial and Indian courts. The proposed definition is identical to the definition under the Civil Service adopted by the Civil Service Spouse Equity Act of 1984. The amendment is necessary to permit the Secretary to recognize orders by territorial and Indian courts affecting distribution of Foreign Service retirement benefits.

Paragraphs (2), (3), and (4) of subsection 410(b) make additional technical conforming amendments in sections 808 and 809 of the Foreign Service Act.

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Section 410(c) makes an indential amendment to sections 804, 814, and 815 of such Act relating to "creditable service" to insure an equitable distribution of "pro rata share" benefits to former spouses. This amendment is related to proposed section 860(d) being added to such Act by section 421 of the bill and is discussed further in the explanation of that section.

RETIREMENT CONTRIBUTIONS UNDER FSRDS

Section 411 amends section 805 of the Foreign Service Act of 1980, relating to deductions from a participant's pay and contributions for prior service for Foreign Service Retirement and Disability System coverage. An employee who was covered by the FSRDS on December 31, 1983, and who was subsequently covered by Social Security will continue in the FSRDS at a reduced contribution. The contribution to the FSRDS will be equal to the excess of the employee's normal FSRDS contribution over the OASDI portion of the Social Security tax. A similar rule will apply to those recalled to the Foreign Service after a break in service of more than one year and who have more than 5 years prior service credit. This provision and the one described below added by section 412 parallel comparable amendments in the bill for the Civil Service.

OFFSET RELATING TO CERTAIN SOCIAL SECURITY BENEFITS

Section 412 amends section 806 of the Act to require that annuities of retirees and survivors under the current FSRDS who are entitled to Social Security benefits for Federal service have their annuities reduced when they first become eligible for such benefits.

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18-MONTH PERIOD TO ELECT SURVIVOR ANNUITY

UNDER FSRDS

Section 413 further amends section 806 of the Foreign Service Act to allow members of the Foreign Service 18 months from the time of retirement to adjust their survivor annuity election to the maximum, provided they deposit an amount in the Fund to defray the cost of such election. This amendment is comparable to the amendment to title 5, U.S. Code, made by the enactment on February 27, 1986 of the Federal Employees Benefits Improvement Act of 1986, P.L. 99-251, to permit similar elections under the Civil Service Retirement System. Similar elections will also be authorized under CSSRS and FSPS under the authority of chapter 84, title 5, U.S. Code.

ALTERNATE FORMS OF ANNUITIES

Section 414 amends section 807 of the Foreign Service Act to authorize the Secretary of State to prescribe alternate forms of annuities payable to members of the Service retiring under FSRDS who elect such alternate forms. The alternative forms would be prescribed under the same cost restraints and other restrictions that apply to the alternate forms authorized under section 8343a added to title 5, U.S. Code by section 204 of the bill.

RECALL SERVICE

Section 415 amends existing section 823 of the Act which deals with retirement benefits of retired Foreign Service members who are recalled to active duty. The amendment provides that members who are recalled in the future and who come under FSPS will receive the same benefits as reemployed annuitants.

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REEMPLOYMENT

Section 416 amends existing section 824 of the Act which concerns reemployed annuitants. The Foreign Service has long had a distinctive rule on reemployed annuitants to permit use of retired members who are uniquely qualified to perform certain essential tasks. The existing Civil Service rule on this subject offers next to no incentive for retired persons to return to work for the Government. This amendment would adapt the current Foreign Service rule in section 824 of the Act for use under both FSRDS and the FSPS. This amendment recognizes that some reemployed annuitants will have an annuity under both the new and old systems. It also recognizes that it would be difficult or inappropriate to recompute a Foreign Service annuity following employment under the new Civil Service Supplemental Retirement System.

This amendment would permit annuitants reemployed on a part-time, intermittent or temporary basis to elect to continue to receive their annuity while reemployed up to a ceiling amount. The annuity would be reduced as necessary so that in any year annuity payments when added to salary does not cause the total to exceed the current annual salary rate for the reemployed position when occupied on a full-time basis. Such employees would receive no other retirement benefits for the reemployed service. The proposed ciling amount is different from the ceiling currently specified in section 827. The latter is the basic annual salary rate of the member at the time of initial retirement. The ceiling proposed herein is taken from section 8468(b) of S. 1527, a similar section.

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Reemployed annuitants not making the above election would have their service treated as covered service and make current contributions to the applicable retirement system. Their Federal annuity would be terminated during reemployment. Upon completion of the Federal employment, they would become eligible either to a recomputation of their annuity, if reemployed under the same retirement system, or if not, to an additional annuity based on salary and service during the period of reemployment. The additional annuity would be computed under the rules for the general Civil Service.

This amendment covers reemployment under both the present FSRDS and the proposed FSPS. The phrase "employee or member" refers to members of the Foreign Service and to employees who are former members of the Service who elected under section 2106 of the Foreign Service Act of 1980 to remain participants in the FSRDS.

MAINTENANCE OF COMPARABILITY BETWEEN FSPS AND CSSRS

Section 415 amends section 827 of the Act to extend the existing "Executive order" procedure for maintaining conformity between the Civil Service and Foreign Service retirement systems to the new CSSRS and FSPS.

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MODERATION OF REMARRIAGE PENALTY

Section 418 adds new section 428 at the end of subchapter I, chapter 8, of the Foreign Service Act to modify the penalty concerning remarriage. Under FSRDS, benefits to a surviving spouse, former spouse, or surviving former spouse cease if they remarry prior to age 60. This used to be the rule under the Civil Service Retirement System. The age was reduced to 55 under that system by the Civil Service Retirement Spouse Equity Act of 1984. The Act of February 27, 1986 made the age 55 rule applicable to current beneficiaries provided the remarriage occurred on or after November 8, 1984.

New section 428 of the Foreign Service Act will extend the same benefit to beneficiaries under FSRDS who remarry on or after that date. Those affected whose benefits have been discontinued will be paid a retroactive adjustment.

FOREIGN SERVICE PENSION SYSTEM

Section 421 is the major substantive amendment. It adds subchapter II of chapter 8 of the Foreign Service Act of 1980, entitled "Foreign Service Pension System", comprised of sections 851 through 861.

APPLICABILITY OF CHAPTER 84, TITLE 5 U.S. CODE

Section 851 provides that participants in the new FSPPS shall be subject to all provisions in chapter 84, title 5, U.S. Code governing CSSRS except where otherwise specifically provided by law. The exceptions are all stated in this amendment.

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DEFINITIONS

Section 852 provides definitions of the following terms: annuity, court order, dynamic assumptions, Fund, normal cost, participant, pro rata share, supplemental liability, and System.

PARTICIPATION

Section 853 provides, in general, that all members of the Foreign Service whose service after 1983 brings them under Social Security and who would, save for this section, be participants in the FSRDS, shall be participants in the FSPS. Three exceptions are stated relating to continuity of employment and temporary or intermittent employees, which are identical to exceptions under CSSRS.

ENTITLEMENT TO ANNUITY

Section 854 provides special rules governing entitlement to annuity under FSPS. Any entitlement or requirement not mentioned here would automatically, pursuant to section 851, be governed by chapter 84 of title 5, U.S. Code.

Subsection 854(a) provides that members retiring voluntarily or mandatorily under the conditions of existing section 607, 608, 811, 812, or 813 shall receive an annuity computed under proposed new section 8415(d) applicable to "special category" personnel in CSSRS.

Subsection 854(b) provides that those retired under subsection (a) above, will be entitled to an annuity supplement from the effective date of retirement to age 62 based on total creditable service of the member and computed under section 8421 of title 5.

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Subsection 854(c) makes participants in the new system subject to existing provisions for voluntary and mandatory retirement of existing section 811, 812 and 813.

Subsection 854(d) carries forward to the new System the provision denying pension benefits to a member separated on grounds of disloyalty to the U.S.

DEDUCTIONS FROM SALARY

Section 855 requires agencies employing members of the Foreign Service in FSPS to deduct and withhold 7-1/2 percent of their pay, reduced by the then current Social Security withholding tax rate, for deposit in the Foreign Service Retirement Fund. This is the percentabe applicable to special category personnel under CSSRS.

GOVERNMENT PAYMENTS TO FUND

Section 856 provides for Government contributions to the Fund comparable to those made under CSSRS. Subsection (a) requires employing agencies to contribute the "normal cost" as determined by the Secretary of State. Subsection (b) provides for amortization of the supplemental liability, by the Secretary of the Treasury.

COST-OF-LIVING

Section 857 provides that annuitants under FSPS receive cost-of-living adjustments under procedures applicable to special groups of employees (annuitants) under CSSRS.

GENERAL AND ADMINISTRATIVE PROVISIONS

Subsection 858(a) provides that the Secretary of State shall administer the FSPS exclusive of matters pertaining to the Thrift Savings Plan. It also grants the Secretary the same authority

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granted to the Office of Personnel Management and its Director by chapter 84, Title 5, U.S. Code. For example, application of the disability retirement provision by regulation might differ slightly from the similar CSSRS provision because of the Foreign Service being a rank-in-person and service-abroad System under which members are appointed to a class, not to a position. The thrift plan would be administered as provided in subchapters III and VII of chapter 84, title 5, U.S. Code.

Subsection 858(b) provides that matters in dispute under FSPS be appealed to the Foreign Service Grievance Board--a Board established by chapter 11 of the Foreign Service Act of 1980 experienced in Foreign Service matters--rather than the Merit Systems Protection Board or OPM.

Subsection 858(c) provides that the Secretary of Treasury provide actuarial services for the FSPS similar to the services provided for the PSRDS.

TRANSITION AND CONVERSION TO FSPS

Section 859 authorizes and directs the Secretary of State to issue regulations for the transition to the FSPS, and conversion of current employees, in a manner comparable to that provided for Civil Service employees. Under this authority, for example, members of the Foreign Service could be given an opportunity to make an election regarding participation in PSRDS or FSPS similar to the election afforded civil service personnel under section 302 of the bill.

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FORMER SPOUSES

Sections 860 and 861 conform the FSPS with the existing provisions on former spouses added to the Foreign Service Retirement System by the landmark revision of the Foreign Service Act of 1980. These sections do two basic things: first, with respect to certain former spouses, section 860 mandates a pro rata share division of retirement and survivor benefits when a different distribution has not been ordered or approved by a court or agreed to by the parties. Secondly, section 861 authorizes a participant in the new System to "contract" with his or her spouse or former spouse on a mutually agreed upon distribution of benefits under the System.

Section 860 deals with benefits for certain former spouses. Subsection(a) covers all benefits otherwise payable under the Foreign Service Pension System to a participant, as distinguished from survivor benefits. It is applicable only to former spouses married to a participant for at least 10 years which are creditable as service under either the existing Foreign Service Retirement System or the proposed Foreign Service Pension System provided at least 5 of those years occurred while the participant was a member of the Foreign Service. It provides, in the absence of a court order or spousal agreement to the contrary, for payment to a qualified former spouse of up to 50 percent of the benefits otherwise payable to a former participant under the Foreign Service Pension System after the divorce becomes final and before the former spouse dies or remarries prior to becoming age 55.

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Subsection (a)(2) provides that the maximum share, 50 percent, would be payable in case a marriage endured during the entire period of a former participant's Government career -- during all of the creditable service. In other cases, a pro rata share of 50 percent would be payable to the former spouse.

Subsection (a)(3) makes a former spouse who remarries before age 55 before commencement of benefits ineligible for benefits under this section.

Subsection (a)(4) makes payments to a former spouse under this section income for purposes of the U.S. Internal Revenue Code.

Subsection (a)(5) makes a former spouse ineligible for any share of a disability annuity under the subsection. However, it provides that the former spouse would be eligible for a pro rata share distribution of the basic annuity under subchapter II, chapter 84, title 5, U.S. Code, that a disabled former participant eventually becomes entitled to receive. This subsection is similar to existing subsection 814(a)(6), the purpose of which is to base pro rata share payments to former spouses on earned benefits rather than subsidized payments based on disability.

Subsection (a)(6) authorizes a former spouse to make any election regarding method of payment of benefits to which the former spouse becomes entitled which a participant may make.

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Subsection (a)(7) deals with the situation where there is more than one former spouse entitled to benefits otherwise payable to a former participant under the Foreign Service Pension System. This subsection provides that the maximum payable pursuant to this subsection, i.e. in the absence of a court order or spousal agreement, is the difference between 50 percent of the total benefit and the aggregate payable under this subchapter to all others.

Subsection 860(b) deals with survivor benefits to former spouses married to a participant for the same periods as specified in subsection 860(a)(1).

Subsection (b)(1) authorizes payment to a qualified former spouse of a share of survivor benefits otherwise payable to a surviving spouse unless a court order or spousal agreement governs the distribution of survivor benefits.

Subsection (b)(2) provides that the share payable to a former spouse shall be equal to 100 percent of the benefits payable to a surviving spouse if the former spouse was married to the deceased for the entire period of the deceased's creditable service. If the marriage did not endure throughout the creditable service, a pro rata share of 100 percent of the survivor benefit would be payable to the former spouse.

Matters such as reduction of the member's annuity to provide the survivor annuity, deposits, commencement, termination, and maximum payable in the event of more than one claim not dealt with in this subchapter will be governed by the corresponding rules for survivor benefits to former spouses under chapter 84, title 5, U.S. Code pursuant to section 851 establishing the Foreign Service Pension System.

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Subsection 860(c) prohibits a participant from making an election concerning payment of annuity or thrift account that would diminish benefits provided to a former spouse pursuant to this section or a spousal agreement.

Subsection 860(d) covers the situation where a member becomes entitled to benefits under both the Foreign Service Retirement System and the Foreign Service Pension System and has a former spouse at the time of transfer to the latter System. In the common situation where benefits are apportioned pursuant to a court order or spousal agreement, the intent may be to provide a pro rata share distribution but the language of the instrument may base the share on length of the marriage during service creditable only under the Retirement System, and not under the Pension System. This will provide an especially large share of the Retirement System benefits. If such an order or spousal agreement is not amended, it would not be fair to provide, under this section, an additional pro rata share of Pension System benefits to the former spouse. The purpose of subsection(d) is to prohibit this possibility.

Similarly, in the case where a former spouse is entitled to a pro rata share of Retirement System benefits based on years married during the entire Government career, it would be unfair not to provide the former spouse the same share of Pension System benefits. Subsection (d) serves this purpose. A related amendment is made to existing sections of the Act by section 410(c) of the

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bill. The purpose is to assure that two former spouses married for the same period to members who have identical careers, one of whom transfers to the new Pension System and the other remains under the old Retirement System, will each receive the same share of benefits under this chapter, if payments are based on pro rata share distributions.

Subsection 860(e) authorizes payment of a survivor annuity to a former spouse following the death of a participant during active service or after separation with entitlement to a deferred annuity, but before commencement of the annuity. Payment would be made provided the deceased left with the Secretary of State a valid spousal agreement providing for such survivor annuity and provided the marriage had endured for the periods specified in subsection (a)(1).

Section 861 defines "spousal agreement" as an authenticated agreement between a participant and a spouse or former spouse. A participant who is currently married may not enter into a spousal agreement with a former spouse without the consent of the current spouse. A spousal agreement may be used to guarantee that certain benefits, otherwise payable under this subchapter, will be paid to a spouse or former spouse.

TABLE OF CONTENTS

Section 422 of the bill amends the table of contents in section 2 of the Foreign Service Act of 1980 to reflect amendments made by the bill.

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EFFECTIVE DATE

Section 423(a) makes the Secretary's authority to regulate, granted by the bill, effective upon enactment to facilitate implementation of the new System.

Section 423(b) makes the amendment concerning election of survivor annuity during the 18-month period after retirement added by section 413 effective 3 months after enactment and apply in the same manner as the similar amendment affecting CSR in the Act of February 27, 1986.

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